North Central Regional Transit District (NCRTD)

Resolution No. 2012-11

ADOPTION OF AN AMENDED NCRTD PUBLIC RECORDS REQUEST POLICY

WHEREAS, the New Mexico Inspection of Public Records Act (The Act) requires access to public records and recognizes such access as a fundamental right afforded in a democracy; and

WHEREAS, compliance with requests to inspect public records is an integral part of the routine duties of the officers and employees of the NCRTD; and

WHEREAS, the NCRTD Public Records Request Policy (Exhibit A) is intended to assist NCRTD personnel in dealing with requests for documents and information in a timely manner; and

WHEREAS, NCRTD wishes to address changes to The Act regarding requests for copies in electronic format; and

WHEREAS, the NCRTD desires to implement and move forward with an updated and amended policy.

NOW THEREFORE BE IT RESOLVED THAT THE NCRTD PUBLIC RECORDS REQUEST POLICY IS APPROVED AND ADOPTED AS AMENDED AND ATTACHED HERETO AS EXHIBITS "A" THROUGH "D" ON THIS 1ST DAY OF JUNE 2012.

Daniel Barrone, Chair

Approved as to form:

Peter Dwyer, Counsel

EXHIBIT A

NCRTD PUBLIC RECORDS REQUEST POLICY

1.0 PURPOSE:

1.1 The purpose of this policy is to ensure that all persons are entitled to the greatest possible information regarding the affairs of the NCRTD and the official acts of its public officers and employees. Providing persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees. The NCRTD shall be responsible for making available public records for inspection. The Purpose of this Policy is also to assist NCRTD personnel in dealing with requests for documents and information in a timely manner.

2.0 APPLICABLE TO:

2.1 All NCRTD Departments, officers and employees.

3.0 REFERENCES:

3.1 The New Mexico Inspection of Public Records Act Chapter 14, Article 2 NMSA 1978.

4.0 DEFINITIONS:

4.1 "Custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;

4.2 "File format" means the internal structure of an electronic file that defines the way it is stored and used;

4.3 "Inspect" means to review all public records that are not excluded in Section 14-2-I NMSA 1978 as listed below:

4.4.1 Right to inspect Public Records: Exceptions.

Every person has the right to inspect public records of the NCRTD except:

a) Records pertaining to physical or mental examinations and medical treatment of persons employed by the NCRTD;
b) Letters of reference concerning employment;
c) Letters or memorandums which are matters of opinion in

personnel files.

d) As provided by the Confidential Materials Act
e) As otherwise provided by law

4.5 "Person" means any individual, corporation, partnership, firm, association or entity.

4.6 "Public Body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education; and

4.7 "Public Records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of the NCRTD and relate to public business, whether or not the records are required by law to be created or maintained.

5.0 POLICY:

5.1 It is the NCRTD's policy to comply with the New Mexico Inspection of Public Records Act regarding written requests to inspect and/or copy public records. The NCRTD shall strive to achieve openness and transparency of all NCRTD functions to the maximum extent permissible and consistent with all state and federal laws.

6.0 PROCEDURES:

6.1 All written requests for inspection of public records shall be filed in the Records Custodian's office. The Records Custodian shall serve as the Custodian of public records for the NCRTD. Written requests may be entered on a "Request for Public Information" form available at the NCRTD Office(s) or on the NCRTD website at www.ncrtd.org (Exhibit A.1)

6.2 A written request may be submitted on paper or electronically and the Custodian shall respond in the same medium in which the request was received. Custodians may also choose to respond in any other medium they deem appropriate, but must respond to the initial request in the same medium in which it was received. Section 14-2-7 (B).

6.3 Each written request shall provide the name, address and telephone number of the person seeking records and shall identify the records sought with reasonable particularity. No person requesting records shall be required to state the reason for inspecting the records.

6.4 The NCRTD Custodian will notify the originating department of any record request and provide them with a copy to ensure they produce the responsive information and are informed regarding the request for information.

6.5 The originating department shall provide the public records to the Custodian immediately or as soon as is practicable under circumstances, but not later that fifteen days after the date the written request was filed with the Custodian. If the records requested are too voluminous to provide to the Custodian, the Custodian will be informed of the location where they may be inspected. If the inspection is not permitted within three business days, the originating department shall explain in writing to the Custodian when the records will be available for inspection or when the NCRTD will respond to the request. (The three-day period shall not begin until the written request is delivered to the office of the Custodian). The written explanation shall be filed with the Custodian by noon (12:00 p.m.) on the third business day after the request for the inspection of public records was filed with the Custodian. The Custodian shall release the explanation to the requester.

6.6 If the Custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time shall be allowed to comply with the request. The Custodian shall provide written notification to the requester within fifteen days of receipt of the request that additional time will be needed to respond to the written request. The requester may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the Custodian does not permit the records to be inspected in a reasonable period of time.

6.7 Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the Custodian prior to inspection, and the nonexempt information shall be made available for inspection. If necessary to preserve the integrity of computer data or the confidentiality of exempt information contained in a database, a partial printout of data containing public records or information may be furnished in lieu of an entire database. Exempt information in an electronic document shall be removed along with the corresponding metadata prior to disclosure by utilizing methods or redaction tools that prevent the recovery of exempt information from a redacted electronic document.

6.8 The NCRTD may redact protected personal identifier information before providing a public record. Personal identifier information is defined as: (1) a social security number; (2) all but the year of a person's birthdate; (3) all but the last four digits of a taxpayer identification number, financial account number or driver's license number.

6.9 A Custodian shall provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is

specifically requested. However, a Custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.

6.10 Unless a written request has been determined to be excessively burdensome or broad, a written request for inspection of public records that has not been permitted within fifteen days of receipt by the office of the Custodian may be deemed denied. The person requesting the public records may pursue the remedies provided in the Inspection of Public Records Act.

6.10. If a written request has been denied, the Custodian shall provide requester with a written explanation of the denial. The written denial shall:

a) Describe the records sought;
b) Set forth the names and titles or positions of each person responsible for the denial; and
c) Be delivered or mailed to the person requesting the records within fifteen days after the request for inspection was received.

6.11 If the public record is located at an offsite location, the Records Custodian for the NCRTD shall request and locate the record from the offsite storage location as soon as possible, following existing procedures for withdrawal of records.

6.12 NCRTD originals or best copy documents shall not be physically released to anyone outside the NCRTD. The NCRTD records Custodian shall issue verified, certified copies of any and all documents in the NCRTD's custody upon written request for records or subpoenas.

6.13 The Custodian shall provide copies of public records upon request with a reasonable cost charged for reproduction. The copy fees are listed in Exhibit A.2

6.14 When producing documents in electronic format the Custodian can charge a requester the actual costs associated with downloading copies of public records to a storage device and the actual cost of the storage device, including the actual cost of the computer disk or storage device. Standard per-side copy fees include up to 15 minutes of staff time to retrieve the records and all photocopying/scanning. If the request requires additional staff time, research, or attorney review, additional labor fees will be charged. Labor fees are based on the actual cost of the employee performing the work, which includes hourly payroll rate, benefits, and overhead. Work to which the standard per side copy fees cannot be applied will be charged on the basis of actual cost.

6.15 Any document to be provided in electronic format shall be converted into a PDF file format by the Custodian prior to release.

6.16 Nothing in this section regarding the provision of public data in electronic format

shall limit the ability of the Custodian to engage in the sale of data as authorized by Section 14-3-15.1 NMSA 1978, including imposing reasonable restrictions on the use of the database and the payment of a royalty or other consideration.

6.17 All responses to requests for electronic copies in draft stage shall carry the following disclaimer:
"Documents produced in response to public records request may be altered subsequent to production particularly when in electronic format. Draft documents may be inaccurate, may have incorrect or misleading information, may not state the policies, positions or conclusions of senior management or the NCRTD board and are subject to change subsequent to inspection or production. Draft documents should not be relied upon as representations by the NCRTD or its agents as to any fact or conclusion and are not reliable sources of accurate information."

EXHIBIT B

NCRTD REQUEST FOR PUBLIC RECORDS

In accordance with Section 14.-2.-.1 NMSA 1978, as amended, I would like to inspect and/or copy the following documents: (Please list records with reasonable particularity)

_____

_____

_____

_____

_____

I promise to pay copying charges as listed in the attached Copy Fee Schedule. If the copying charges will exceed $_____ please call me to discuss. I understand that payment is due at, or before, the time of receipt of the copies requested. A receipt shall be provided upon request.

Public records will be available from 8:00 a.m. to 5:00 p.m. on normal business days. Original records may not be removed from the NCRTD offices.

_____

Name of Requester Date

_____

Signature Telephone Number

_____

Address e-mail address

FOR DEPARTMENT USE ONLY

The request to inspect public records is: **Approved** _____ **Disapproved for the following reason(s):** _____ _____ _____ _____	**3 Day Deadline** _____ **15 Day Deadline** _____ **Date Completed** _____ **No. of Copies** _____ **Cost** _____ **Receipt No.** _____

EXHIBIT C

COPY FEE SCHEDULE FOR PUBLIC RECORDS

11" x 17" copies or smaller	Color or b&w, one side only	$1.00 per page
	Two sided copies	$1.50 per page
11" x 17" or larger	Maps, drawings, documents	$1.50 per sq. foot
Faxes		$1.00 per page
Scan Fee		$1.00 per page
US Postal Services		Actual costs incurred
Documents on CD/DVD		$3.00 per CD/DVD

ELECTRONIC TRANSMITTAL

Documents NOT in electronic format	$1.00 per page
Documents already saved in electronic format	No charge up to 1MB

(Documents that collectively total more than 1MB must be downloaded to a non-rewritable CD/DVD)

Free Copies Each requester is entitled to fifteen copies at no charge per calendar year for documents 11" x 17" in size or smaller.

Standard per-side copy fees include up to 15 minutes of staff time to retrieve the records and all photocopying/scanning. If the request requires additional staff time, research, or attorney review, additional labor fees will be charged. Labor fees are based on the actual cost of the employee performing the work, which includes hourly payroll rate, benefits, and overhead. Work to which the standard per side copy fees cannot be applied will be charged on the basis of actual cost (NCRTD Public Records Request Policy Section 6.14).

EXHIBIT D

NOTICE OF RIGHT TO INSPECT PUBLIC RECORDS

By law, under the New Mexico Inspection of Public Records Act (Act), every person has the right to inspect public records of the North Central Regional Transit District (NCRTD). The Act also makes compliance with requests to inspect public records an integral part of the routine duties of the officers and employees of the NCRTD.

Procedures for Requesting Inspection. Requests to inspect public records should be submitted to the records Custodian (Public Information Officer) located at 3600 Rodeo Lane, Suite, B-6, Santa Fe, New Mexico, 87507, by calling 505-438-3257 or faxing request to 505-438-0351 or by email to jimn@ncrtd.org

A person desiring to inspect public records may submit a request to the records Custodian orally or in writing. However, the procedures and penalties prescribed in the Act apply only to written requests. A written request must contain the name, address and telephone number of the person making the request. Written requests may be submitted in person or sent via US mail, email or facsimile. The request must describe the records sought in sufficient detail to enable the records Custodian to identify and locate the requested records.

The records Custodian must permit inspection immediately or as soon as practicable; but no later than 15 calendar days after the records Custodian receives the inspection request. If inspection is not permitted within three business days, the person making the request will receive a response, in the format by which it was received, explaining when the records will be available for inspection or when the public body will respond to the request. If any of the records sought are not available for public inspection, the person making the request is entitled to a response from the records Custodian explaining the reasons inspection has been denied. The written denial shall be delivered in the format by which it was originally received and/or mailed within 15 calendar days after the records Custodian received the request for inspection.

Procedures for Requesting Copies and Fees. If a person requesting inspection would like a copy of a public record, a reasonable fee may be charged. The fee for documents eleven inches by 17 inches or smaller is up to $1.00 per page per NCRTD fee schedule. Fees to print larger documents as well as other fees for copies are set forth in the NCRTD Public Records Request Policy (Exhibit C). Payment is due at, or before, the time of receipt of the copies requested. A receipt indicating that the fees have been paid for making copies of public records will be provided upon request to the person requesting the copies.